

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

EDWARD VERHOVEC,

Plaintiff,

:

Case No. 3:14-cv-363

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

CITY OF TROTWOOD, OHIO, et al.,

Defendants.

:

DECISION AND ORDER GRANTING MOTION TO STRIKE

This case is before the Court on Motion of Defendants City of Trotwood and Michael J. Lucking to Strike Counterclaim Defendants' Motion to Dismiss, for Judgment on the Pleadings, and for Sanctions (Doc. No. 30).

This case was assigned to the undersigned Magistrate Judge upon its transfer from the Eastern Division and then referred on January 16, 2015, by Judge Rice's Preliminary Pretrial Order (Doc. No. 38) which provides in pertinent part:

Pursuant to 28 U.S.C. §636(b), this case is hereby referred to the assigned United States Magistrate Judge from the date of this Order until the discovery cut-off date set herein on any extension granted by the Magistrate Judge or District Judge. At which time Judge Rice will assume management of said case through resolution or trial, unless otherwise ordered. The Magistrate Judge to whom the case is referred is authorized to perform any and all functions authorized for full-time United States Magistrate Judges

by statute, including, without limiting the generality of the foregoing, all motions to remand removed cases to state court, all motions to dismiss or for judgment on the pleadings under Fed. R. Civ. P. 12, and all discovery-related motions. In each such case, the Magistrate Judge shall proceed in accordance with Fed. R. Civ. P. 72.

Id. at PageID¹ 320-21.

The Motion to Strike was filed and served November 26, 2014 (Doc. No. 30, PageID 259). Because it is not a “dispositive” motion within the intendment of Fed. R. Civ. P. 72(b), it is within the decisional authority of the Magistrate Judge. Under S. D. Ohio Civ. R. 7.2, the time to oppose the Motion expired on December 22, 2014, but no opposition has been filed. That Rule further provides, “[f]ailure to file a memorandum in opposition may result in the granting of any motion that would not result directly in entry of final judgment of an award of attorney fees.”

The Motion to Strike being unopposed within the time allowed by law, it is hereby GRANTED.

January 20, 2015.

s/ *Michael R. Merz*
United States Magistrate Judge

¹ When any document is filed with this Court, the Court’s electronic filing system affixes a unique Page Identification Number in the upper right hand corner of every page. The attention of the parties is directed to this Magistrate Judge’s Standing Order of May 8, 2014, which provides in pertinent part “All references to the record in this Court must be to the filed document by title, docket number, and PageID reference. (E.g., Defendant’s Motion to Dismiss, Doc. No. 27, PageID ____.) The large majority of cases before this Magistrate Judge are habeas corpus cases with large state court records and correct citation to the record is critical to judicial economy. Therefore, nonconforming filings will be stricken.